



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,834	04/10/2001	Joseph R. Edwards	ROC920010078US1	1266

7590 11/02/2006
Leslie J. Payne
IBM Corporation-Dept. 917
3605 Highway 52 North
Rochester, MN 55901

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/829,834	Applicant(s) EDWARDS ET AL.	
	Examiner Trenton J. Roche	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 16 August 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

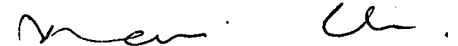
1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items): Section (v) of the brief does not contain "a concise explanation of the subject matter defined in each of the independent claims," rather, the section is 15 pages long, which does not constitute "concise" and most of which is not presenting any sort of correlation or mapping to limitations expressed in the claim language, rather, they go into great detail concerning aspects of the drawings. Furthermore, claim 10 is a means plus function claim, and as provided by 37 CFR 41.37(c)(1)(v), "every means plus function and step plus function as permitted by 35 USC 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number..." The portion of section (v) corresponding to claim 10 refers simply to the summary of the invention in the specification, and does not identify any structure to the means plus function claim.

Furthermore, section (ix) is to be utilized solely for purposes of evidence relied or submitted pursuant to sections 1.130, 1.131, or 1.132, or any other evidence entered by the examiner and replied upon by appellant in the appeal. As the drawings are already a part of the record and are not evidence which has been entered by the examiner for appellant, nor are they evidence relied upon or submitted pursuant to sections 1.130, 1.131, or 1.132, their inclusion in section (ix) is improper.

Finally, the examiner notes that the citation on page 32 of the brief, starting with "whether the changes from the prior art . . ." is not properly cited to any authority.



KAYALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100